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6 UNITED STATES BANKRUPTCY COURT
7 NORTHERN DISTRICT OF CALIFORNIA
8 OAKLAND DIVISION

9 In re: Tony Fu,

10 Debtor.

11 Thai Ming Chiu, Demas Yan, Legal
12 Recovery, LLC,
13 Plaintiffs,
14 v.
15 Tony Fu,
16 Defendant.

Bankruptcy Case No.: 17-41205 CN

AP # 17-04056

MOTION FOR RELIEF FROM ORDER

ENTERED JANUARY 31, 2019

Date: 3/11/2019

Time: 10 am

Judge: Charles Novak

Ctrm: 215

Trial: January 8-9, 29-30, 2019

17 Plaintiff THAI MING CHIU hereby motion for relief from the order entered January 31,
18 2019 (Doc.# 161) and states as follows:

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- 20 1. Rule 60 of F.R.Civ.P, make applicable by rule 9024 of Federal Rule of Bankruptcy
21 Procedure, provides that on motion and just terms, the court may relieve a party from
22 a final judgment or order. One of the reason for relieve is when the judgment is void.
 - 23 2. The Court entered order (Doc.# 161) granting Defendant's motion for judgment for
24 Defendant and against Plaintiff on Plaintiff's claims pursuant to 11 U.S.C. Section
25 727(a)(2), (a)(3) and (a)(4). But Defendant argued that Plaintiff did not have
26 standing, and the Court on January 30, 2019 ruled on the record that Plaintiff did not
27 have standing on those claims.
28

- 1 3. Without standing by plaintiff, Bankruptcy court lacked subject matter jurisdiction to
2 hear Chapter 7 adversary proceeding seeking order denying debtor's discharge under
3 11 USCS § 727. Rosenfeld v Rosenfeld (In re Rosenfeld) (2015, BC ED Mich) 535
4 BR 186. Courts must resolve questions of subject matter jurisdiction before ruling on
5 the merits of the claim. Where the plaintiff has no Article III standing to bring a case,
6 jurisdiction is lacking and the court must dismiss it. Id. at 190 (citations omitted.)
7 4. The Court should dismiss this case because Plaintiff has no standing. The order
8 entered January 31, 2019 granting judgment to Defendant against Plaintiff should be
9 set aside.

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11 Respectfully Submitted,

12 Dated: 2/9/2019

13 /s/Mark Lapham
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